

AMENDED IN ASSEMBLY SEPTEMBER 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 152**

**Introduced by Assembly Member Levine**

January 21, 2003

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~~An act to amend Section 17280.5 of the Education Code, relating to school facilities. An act to amend Sections 56000, 56032, 56040, 56043, 56170, 56195.7, 56301, 56320, 56321, 56329, 56341.5, 56344, 56345, 56345.1, 56346, 56365, 56381, 56500.3, 56500.4, 56502, 56504.5, 56505, 56506, and 56863 of, to add Section 56440.5 and 56500.6 to, and to add Chapter 5.1 (commencing with Section 56515) to Part 30 of, the Education Code, relating to special education.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 152, as amended, Levine. ~~School facility seismic safety~~  
*Special education.*

*Existing law establishes a right of individuals with exceptional needs to receive free and appropriate public education and ensures the right to special instruction and related services needed to meet their unique needs, in conformity with federal law.*

*This bill would make various revisions generally conforming state law to federal requirements relating to: pupil identification, assessment, and eligibility; individualized education program development, including notice, representation, and hearing procedures and requirements; multidistrict special education local plan area monitoring, review, and correction procedures; the provision of early intervention services; and pupil data confidentiality, and would make other technical nonsubstantive changes. To the extent that the bill would*

*require school districts and local agencies to provide programs or increased levels of service not required by federal law, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law, the Field Act, provides for seismic safety review and approval of school building design and construction by the Department of General Services.~~

~~Existing law requires the Seismic Safety Commission to convene an advisory committee to study and report on whether a regulatory process may be developed that will allow the State Architect to determine whether a building not originally constructed in compliance with the Field Act either meets, or can be retrofitted to meet, the equivalent pupil safety performance standard as a building constructed according to the Field Act.~~

~~Existing law requires the State Architect to draft regulations establishing that regulatory process if the commission determines that such a regulatory process may be developed. Existing law deems a leased or purchased building that is determined to be in compliance with that regulatory process to be in full compliance with the Field Act.~~

~~This bill would make a technical, nonsubstantive, change.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 17280.5 of the Education Code is~~
- 2 ~~SECTION 1. Section 56000 of the Education Code is~~
- 3 ~~amended to read:~~



56000. The Legislature finds and declares ~~that~~ all individuals with exceptional needs, *from birth until the person attains 22 years of age*, have a right to participate in free appropriate public education and ~~that~~ special educational instruction and services for these persons are needed in order to ensure ~~them~~ of the right to an appropriate educational opportunity to meet their unique needs. *The Legislature finds and declares that California provides full educational opportunity to all eligible individuals with exceptional needs in accordance with paragraph (2) of subsection (a) of Section 1412 of Title 20 of the United States Code.*

It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to ~~assure~~ *ensure* that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique needs under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

It is the further intent of the Legislature that ~~nothing in this part shall be construed to~~ *does not* abrogate any right provided to individuals with exceptional needs and their parents or guardians under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that ~~nothing in this part shall be construed to~~ *does not* set a higher standard of educating individuals with exceptional needs than that established by Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs that is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with ~~provisions of this part by all school districts and county offices during a two-year transitional period commencing with fiscal year 1980-81, with full implementation to be completed by June 30, 1982.~~

1     SEC. 2.   Section 56032 of the Education Code is amended to  
2     read:

3     56032.   “Individualized education program” means a written  
4     document described in Sections 56345 and 56345.1 for an  
5     individual with exceptional needs that is developed, reviewed, and  
6     revised in a meeting in accordance with Sections 300.340 to  
7     300.350, inclusive, of Title 34 of the Code of Federal Regulations  
8     and this part. It also means “individualized family service plan”  
9     as described in Section 1436 of Title 20 of the United States Code  
10    ~~when~~ if individualized education program pertains to ~~individuals~~  
11    an individual with exceptional needs younger than three years of  
12    age.

13    SEC. 3.   Section 56040 of the Education Code is amended to  
14    read:

15    56040.   (a) Every individual with exceptional needs, who is  
16    eligible to receive educational instruction, related services, or both  
17    under this part shall receive ~~such~~ educational instruction, services,  
18    or both, at no cost to his or her parents or, as appropriate, to him  
19    or her. A free appropriate public education shall be available to  
20    individuals with exceptional needs in accordance with paragraph  
21    (1) of subsection (a) of Section 1412 of Title 20 of the United States  
22    Code and Section 300.121 of Title 34 of the Code of Federal  
23    Regulations.

24    (b) An individual, aged 18 through 21, who, in the educational  
25    placement prior to his or her incarceration in an adult correctional  
26    facility was not identified as being an individual with exceptional  
27    needs or did not have an individualized education program under  
28    this part, is not entitled to a free appropriate public education  
29    pursuant to clause (ii) of subparagraph (B) of paragraph (1) of  
30    subsection (a) of Section 1412 of Title 20 of the United States Code.

31    SEC. 4.   Section 56043 of the Education Code is amended to  
32    read:

33    56043.   The primary timelines affecting special education  
34    programs are as follows:

35    (a) A proposed assessment plan shall be developed within 15  
36    calendar days of referral for assessment, not counting calendar  
37    days between the pupil’s regular school sessions or terms or  
38    calendar days of school vacation in excess of five schooldays from  
39    the date of receipt of the referral, unless the parent or guardian

1 agrees, in writing, to an extension, pursuant to subdivision (a) of  
2 Section 56321.

3 (b) A parent or guardian shall have at least 15 calendar days  
4 from the receipt of the proposed assessment plan to arrive at a  
5 decision, pursuant to subdivision (c) of Section 56321.

6 (c) A parent or guardian shall be notified of the individualized  
7 education program meeting early enough to ensure an opportunity  
8 to attend, pursuant to subdivision (b) of Section 56341.5.

9 (d) An individualized education program required as a result of  
10 an assessment of a pupil shall be developed within a total time not  
11 to exceed 50 calendar days, not counting days between the pupil's  
12 regular school sessions, terms, or days of school vacation in excess  
13 of five schooldays, from the date of receipt of the parent's or  
14 guardian's written consent for assessment, unless the parent or  
15 guardian agrees, in writing, to an extension, pursuant to Section  
16 56344. *However, a meeting to develop an individualized education*  
17 *program meeting for the pupil shall be conducted within 30 days*  
18 *of a determination that the child needs special education and*  
19 *related services pursuant to paragraph (2) of subsection (b) of*  
20 *Section 300.343 of Title 34 of the Code of Federal Regulations and*  
21 *in accordance with Section 56344.*

22 (e) Beginning at age 14; *or younger if determined by the*  
23 *individualized education program team pursuant to paragraph (1)*  
24 *of subsection (b) of Section 300.347 of Title 34 of the Code of*  
25 *Federal Regulations*, and updated annually, a statement of the  
26 transition service needs of the pupil shall be included in the pupil's  
27 individualized education program, pursuant to subdivision (a) of  
28 Section 56345.1.

29 (f) Beginning at age 16; or younger, and annually thereafter, a  
30 statement of needed transition services shall be included in the  
31 pupil's individualized education program, pursuant to subdivision  
32 (b) of Section 56345.1.

33 (g) A pupil's individualized education program shall be  
34 implemented as soon as possible following the individualized  
35 education program meeting, pursuant to Section 3040 of Title 5 of  
36 the California Code of Regulations.

37 (h) An individualized education program team shall meet at  
38 least annually to review a pupil's progress, the individualized  
39 education program, including whether the annual goals for the  
40 pupil are being achieved, the appropriateness of the placement,

1 and to make any necessary revisions, pursuant to subdivision (d)  
2 of Section 56343, subdivision (a) of Section 56380, and Section  
3 3068 of Title 5 of the California Code of Regulations.

4 (i) A reassessment of a pupil shall be conducted at least once  
5 every three years or more frequently, if conditions warrant a  
6 reassessment and a new individualized education program to be  
7 developed, pursuant to Section 56381.

8 (j) A meeting of an individualized education program team  
9 requested by a parent or guardian to review an individualized  
10 education program pursuant to subdivision (c) of Section 56343  
11 shall be held within 30 calendar days, not counting days in July and  
12 August, from the date of receipt of the parent's or guardian's  
13 written request, pursuant to Section 56343.5.

14 (k) The administrator of a local program under this part shall  
15 ensure that the pupil is immediately provided an interim placement  
16 for a period not to exceed 30 calendar days whenever a pupil  
17 transfers into a school district from a school district not operating  
18 programs under the same local plan in which he or she was last  
19 enrolled in a special education program pursuant to Section 56325.

20 (l) The parent or guardian shall have the right and opportunity  
21 to examine all school records of the child and to receive copies  
22 within five calendar days after a request is made by the parent or  
23 guardian, either orally or in writing, pursuant to Section 56504 and  
24 Chapter 6.5 (commencing with Section 49060) of Part 27.

25 (m) Upon receipt of a request from an educational agency  
26 where an individual with exceptional needs has enrolled, a former  
27 educational agency shall send the pupil's special education  
28 records, or a copy thereof, within five working days, pursuant to  
29 subdivision (a) of Section 3024 of Title 5 of the California Code  
30 of Regulations.

31 (n) The department shall do all of the following:

32 (1) Have a time limit of 60 calendar days after a complaint is  
33 filed with the state education agency to investigate the complaint.

34 (2) Give the complainant the opportunity to submit additional  
35 information about the allegations in the complaint.

36 (3) Review all relevant information and make an independent  
37 determination as to whether there is a violation of a requirement  
38 of this part or Part B of the Individuals with Disabilities Education  
39 Act (20 U.S.C. Sec. 1400 et seq.).

1 (4) Issue a written decision, pursuant to Section 300.661 of  
2 Title 34 of the Code of Federal Regulations.

3 (o) A prehearing mediation conference shall be scheduled  
4 within 15 calendar days of receipt by the superintendent of the  
5 request for mediation, and shall be completed within 30 calendar  
6 days after the request for mediation, unless both parties to the  
7 prehearing mediation conference agree to extend the time for  
8 completing the mediation, pursuant to Section 56500.3.

9 (p) Any request for a due process hearing arising from  
10 subdivision (a) of Section 56501 shall be filed within three years  
11 from the date the party initiating the request knew or had reason  
12 to know of facts underlying the basis for the request, pursuant to  
13 subdivision (j) of Section 56505.

14 (q) The superintendent shall ensure that, within 45 calendar  
15 days after receipt of a written due process hearing request, the  
16 hearing is immediately commenced and completed, including any  
17 mediation requested at any point during the hearing process, and  
18 a final administrative decision is rendered, pursuant to subdivision  
19 (a) of Section 56502.

20 (r) If either party to a due process hearing intends to be  
21 represented by an attorney in the due process hearing, notice of that  
22 intent shall be given to the other party at least 10 calendar days  
23 prior to the hearing, pursuant to subdivision (a) of Section 56507.

24 (s) Any party to a due process hearing shall have the right to be  
25 informed by the other parties to the hearing, at least 10 calendar  
26 days prior to the hearing, as to what those parties believe are the  
27 issues to be decided at the hearing and their proposed resolution  
28 of those issues, pursuant to paragraph (6) of subdivision (e) of  
29 Section 56505.

30 (t) Any party to a due process hearing shall have the right to  
31 receive from other parties to the hearing, at least five business days  
32 prior to the hearing, a copy of all documents, including all  
33 assessments completed and not completed by that date, and a list  
34 of all witnesses and their general area of testimony that the parties  
35 intend to present at the hearing, pursuant to paragraph (7) of  
36 subdivision (e) of Section 56505.

37 (u) An appeal of a due process hearing decision shall be made  
38 within 90 calendar days of receipt of the hearing decision, pursuant  
39 to subdivision (i) of Section 56505.

(v) When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full individualized education program team of all of the following pursuant to paragraph (2) of subdivision (c) of Section 7572.5 of the Government Code:

(1) The case progress.

(2) The continuing need for out-of-home placement.

(3) The extent of compliance with the individualized education program.

(4) Progress toward alleviating the need for out-of-home care.

(w) No later than the pupil's 17th birthday, a statement shall be included in the pupil's individualized education program that the pupil has been informed of his or her rights that will transfer to the pupil upon reaching 18 years of age pursuant to Section 300.517 of Title 34 of the Code of Federal Regulations, Section 56041.5, and paragraph (8) of subdivision (a) of Section 56345.

*SEC. 5. Section 56170 of the Education Code is amended to read:*

56170. As used in this part, "private school children with disabilities" means children with disabilities enrolled by a parent in private *preschool or private* elementary and secondary schools or facilities, *in accordance with Section 300.450 of Title 34 of the Code of Federal Regulations*, other than individuals with exceptional needs placed by a district, special education local plan area, or county office in a nonpublic, nonsectarian school pursuant to Section 56365.

*SEC. 6. Section 56195.7 of the Education Code is amended to read:*

56195.7. In addition to the provisions required to be included in the local plan pursuant to Chapter 3 (commencing with Section 56200), each special education local plan area that submits a local plan pursuant to subdivision (b) of Section 56195.1 and each county office that submits a local plan pursuant to subdivision (c) of Section 56195.1 shall develop written agreements to be entered into by entities participating in the plan. The agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

1 (a) A coordinated identification, referral, and placement  
2 system pursuant to Chapter 4 (commencing with Section 56300).

3 (b) Procedural safeguards pursuant to Chapter 5 (commencing  
4 with Section 56500).

5 (c) Regionalized services to local programs, including, but not  
6 limited to, all of the following:

7 (1) Program specialist service pursuant to Section 56368.

8 (2) Personnel development, including training for staff,  
9 parents, and members of the community advisory committee  
10 pursuant to Article 3 (commencing with Section 56240).

11 (3) Evaluation pursuant to Chapter 6 (commencing with  
12 Section 56600).

13 (4) Data collection and development of management  
14 information systems.

15 (5) Curriculum development.

16 (6) Provision for ongoing review of programs conducted, and  
17 procedures utilized, under the local plan, and a mechanism for  
18 correcting any identified problem.

19 (d) A description of the process for coordinating services with  
20 other local public agencies that are funded to serve individuals  
21 with exceptional needs.

22 (e) A description of the process for coordinating and providing  
23 services to individuals with exceptional needs placed in public  
24 hospitals, proprietary hospitals, and other residential medical  
25 facilities pursuant to Article 5.5 (commencing with Section  
26 56167) of Chapter 2.

27 (f) A description of the process for coordinating and providing  
28 services to individuals with exceptional needs placed in licensed  
29 children's institutions and foster family homes pursuant to Article  
30 5 (commencing with Section 56155) of Chapter 2.

31 (g) A description of the process for coordinating and providing  
32 services to individuals with exceptional needs placed in juvenile  
33 court schools or county community schools pursuant to Section  
34 56150.

35 (h) A budget for special education and related services that  
36 shall be maintained by the special education local plan area and be  
37 open to the public covering the entities providing programs or  
38 services within the special education local plan area. The budget  
39 language shall be presented in a form that is understandable by the  
40 general public. For each local educational agency or other entity

1 providing a program or service, the budget, at minimum, shall  
2 display the following:

3 (1) Expenditures by object code and classification for the  
4 previous fiscal year and the budget by the same object code  
5 classification for the current fiscal year.

6 (2) The number and type of certificated instructional and  
7 support personnel, including the type of class setting to which they  
8 are assigned, if appropriate.

9 (3) The number of instructional aides and other qualified  
10 classified personnel.

11 (4) The number of enrolled individuals with exceptional needs  
12 receiving each type of service provided.

13 (i) For multidistrict special education local plan areas, a  
14 description of the policymaking process that shall include a  
15 description of the local method used to distribute state and federal  
16 funds among the local educational agencies in the special  
17 education local plan area. The local method to distribute funds  
18 shall be approved according to the policymaking process  
19 established consistent with subdivision (f) of Section 56001 and  
20 pursuant to paragraph (3) of subdivision (b) of Section 56205 or  
21 subdivision (c) of Section 56200, whichever is appropriate.

22 *(1) In accordance with Section 1413 of Title 20 of the United*  
23 *States Code, each multidistrict special education local plan area*  
24 *established pursuant to subdivision (b) of Section 56195.1 shall*  
25 *have a written procedure for the ongoing review of programs*  
26 *conducted, and procedures utilized, under the local plan, and a*  
27 *mechanism for correcting any identified problem pursuant to*  
28 *paragraph (6) of subdivision (c).*

29 *(2) Multidistrict special education local plan areas established*  
30 *pursuant to subdivision (b) of Section 56195.1 and a district or*  
31 *districts joined with the county office of education in accordance*  
32 *with subdivision (c) of Section 56195.1 shall have a written*  
33 *agreement entered into by entities participating in the local plan*  
34 *that includes a provision for ongoing review of programs*  
35 *conducted, and procedures utilized, under the local plan, and a*  
36 *mechanism for correcting any identified problem pursuant to*  
37 *paragraph (6) of subdivision (c).*

38 SEC. 7. Section 56301 of the Education Code is amended to  
39 read:

56301. (a) All individuals with disabilities residing in the state, including pupils with disabilities who are enrolled in elementary and secondary schools and private schools, including parochial schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and assessed as required by paragraph (3) and clause (ii) of paragraph (10) of subsection (a) of Section 1412 of Title 20 of the United States Code. ~~Each district,~~

(b) *In accordance with Section 300.125 of Title 34 of the Code of Federal Regulations, the requirements of this section also apply to highly mobile individuals with exceptional needs, such as migrant and homeless children, and children who are suspected of being an individual with exceptional needs pursuant to Section 56026 and in need of special education, even though they are advancing from grade to grade.*

(c) ~~Each special education local plan area, or county office~~ shall establish written policies and procedures for use by its constituent local agencies for a continuous child-find system ~~which~~ that addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs. Parents shall be given a copy of their rights and procedural safeguards upon initial referral for assessment, upon notice of an individualized education program meeting or reassessment, upon filing a complaint, and upon filing for a prehearing mediation conference pursuant to Section 56500.3 or a due process hearing request pursuant to Section 56502.

(d) *Child find data collected pursuant to this chapter, or collected pursuant to a regulation or an interagency agreement, are subject to the confidentiality requirements of Section 300.125 and Sections 300.560 to 300.577, inclusive, of Title 34 of the Code of Federal Regulations.*

SEC. 8. *Section 56320 of the Education Code is amended to read:*

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's

1 educational needs shall be conducted, by qualified persons, in  
2 accordance with requirements including, but not limited to, all the  
3 following:

4 (a) Testing and assessment materials and procedures used for  
5 the purposes of assessment and placement of individuals with  
6 exceptional needs are selected and administered so as not to be  
7 racially, culturally, or sexually discriminatory.

8 (b) Tests and other assessment materials meet all the following  
9 requirements:

10 (1) Are provided and administered in the pupil's ~~primary~~ *native*  
11 *language, pursuant to Section 300.19 of Title 34 of the Code of*  
12 *Federal Regulations*, or other mode of communication, unless the  
13 assessment plan indicates reasons why this provision and  
14 administration are not clearly feasible.

15 (2) Have been validated for the specific purpose for which they  
16 are used.

17 (3) Are administered by trained personnel in conformance with  
18 the instructions provided by the producer of the tests and other  
19 assessment materials, except that individually administered tests  
20 of intellectual or emotional functioning shall be administered by  
21 a credentialed school psychologist.

22 (c) Tests and other assessment materials include those tailored  
23 to assess specific areas of educational need and not merely those  
24 which are designed to provide a single general intelligence  
25 quotient.

26 (d) Tests are selected and administered to best ensure that when  
27 a test administered to a pupil with impaired sensory, manual, or  
28 speaking skills produces test results that accurately reflect the  
29 pupil's aptitude, achievement level, or any other factors the test  
30 purports to measure and not the pupil's impaired sensory, manual,  
31 or speaking skills unless those skills are the factors the test purports  
32 to measure.

33 (e) Pursuant to subsection (f) of Section 300.532 of Title 34 of  
34 the Code of Federal Regulations, no single procedure is used as the  
35 sole criterion for determining whether a pupil is an individual with  
36 exceptional needs and for determining an appropriate educational  
37 program for the pupil.

38 (f) The pupil is assessed in all areas related to the suspected  
39 disability including, if appropriate, health and development,  
40 vision, including low vision, hearing, motor abilities, language

function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history is obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. In assessing each pupil under this article, the assessment shall be conducted in accordance with ~~subsection~~ subsections (h), (i), and (j) of Section 300.532 of Title 34 of the Code of Federal Regulations.

(g) The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

(h) As part of an initial assessment, if appropriate, and as part of any reassessment under Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and this part, the group that includes members of the individualized education program team, and other qualified professionals, as appropriate, shall follow the procedures specified in subsection (a) of Section 300.533 of Title 34 of the Code of Federal Regulations. The group may conduct its review without a meeting.

*SEC. 9. Section 56321 of the Education Code is amended to read:*

56321. (a) ~~Whenever~~ *If* an assessment for the development or revision of the individualized education program is to be conducted, the parent or guardian of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment not counting days between the pupil's regular school sessions or terms or days of school vacation in excess of five schooldays from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. However, in any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil's regular school term as determined by each district's school calendar for each pupil for whom a referral has been made 10 days or less prior to the end of the regular school year. In the

1 case of pupil school vacations, the 15-day time shall recommence  
2 on the date that the pupil's regular schooldays reconvene. A copy  
3 of the notice of a parent's or guardian's rights shall be attached to  
4 the assessment plan. A written explanation of all the procedural  
5 safeguards under the Individuals with Disabilities Education Act  
6 (20 U.S.C. Sec. 1400 and following), and the rights and  
7 procedures contained in Chapter 5 (commencing with Section  
8 56500), shall be included in the notice of a parent's or guardian's  
9 rights, including information on the procedures for requesting an  
10 informal meeting, prehearing mediation conference, mediation  
11 conference, or due process hearing; the timelines for completing  
12 each process; whether the process is optional; and the type of  
13 representative who may be invited to participate.

14 (b) The proposed assessment plan given to parents or guardians  
15 shall meet all the following requirements:

16 (1) Be in language easily understood by the general public.

17 (2) Be provided in the primary language of the parent or  
18 guardian or other mode of communication used by the parent or  
19 guardian, unless to do so is clearly not feasible.

20 (3) Explain the types of assessments to be conducted.

21 (4) State that no individualized education program will result  
22 from the assessment without the consent of the parent.

23 (c) ~~No~~ An assessment ~~shall~~ *may not* be conducted, unless the  
24 written consent of the parent or guardian is obtained prior to the  
25 assessment except pursuant to subdivision (e) of Section 56506.  
26 The parent or guardian shall have at least 15 days from the receipt  
27 of the proposed assessment plan to arrive at a decision. Assessment  
28 may begin immediately upon receipt of the consent.

29 (d) Consent for initial assessment may not be construed as  
30 consent for initial placement or initial provision of special  
31 education and related services to an individual with exceptional  
32 needs, pursuant to paragraph (2) of subsection (a) of Section  
33 300.505 of Title 34 of the Code of Federal Regulations.

34 (e) *In accordance with paragraph (3) of subsection (a) of*  
35 *Section 300.505 of Title 34 of the Code of Federal Regulations,*  
36 *parental consent is not required before reviewing existing data as*  
37 *part of an assessment or reassessment, or before administering a*  
38 *test or other assessment that is administered to all children, unless*  
39 *before administration of that test or assessment, consent is*  
40 *required of the parents of all the children.*

SEC. 10. Section 56329 of the Education Code is amended to read:

56329. As part of the assessment plan given to parents or guardians pursuant to Section 56321, the parent or guardian of the pupil shall be provided with a written notice that shall include all of the following information:

(a) Upon completion of the administration of tests and other assessment materials, an individualized education program team meeting, including the parent or guardian and his or her representatives, shall be scheduled, pursuant to Section 56341, to determine whether the pupil is an individual with exceptional needs as defined in Section 56026, and to discuss the assessment, the educational recommendations, and the reasons for these recommendations. A copy of the assessment report and the documentation of determination of eligibility shall be given to the parent or guardian.

(b) A parent or guardian has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent or guardian disagrees with an assessment obtained by the public education agency, in accordance with Section 300.502 of Title 34 of the Code of Federal Regulations. *If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and to the observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.*

(c) The public education agency may initiate a due process hearing pursuant to Chapter 5 (commencing with Section 56500) to ~~show~~ *demonstrate* that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent or guardian still has the right for an independent educational assessment, but not at public expense.

If the parent or guardian obtains an independent educational assessment at private expense, the results of the assessment shall

1 be considered by the public education agency with respect to the  
2 provision of free, appropriate public education to the child, and  
3 may be presented as evidence at a due process hearing pursuant to  
4 Chapter 5 (commencing with Section 56500) regarding the child.  
5 *If a public education agency observed the pupil in conducting its*  
6 *assessment, or if its assessment procedures make it permissible to*  
7 *have in-class observation of a pupil, an equivalent opportunity*  
8 *shall apply to an independent educational assessment of the pupil*  
9 *in the pupil's current educational placement and setting, and to the*  
10 *observation of an educational placement and setting, if any,*  
11 *proposed by the public education agency, regardless of whether the*  
12 *independent educational assessment is initiated before or after the*  
13 *filing of a due process hearing proceeding.*

14 (d) *If a parent or guardian proposes a publicly financed*  
15 *placement of the pupil in a nonpublic school, the public education*  
16 *agency shall have an opportunity to observe the proposed*  
17 *placement and the pupil in the proposed placement, if the pupil has*  
18 *already been unilaterally placed in the nonpublic school by the*  
19 *parent or guardian. Any observation conducted pursuant to this*  
20 *subdivision shall only be of the pupil who is the subject of the*  
21 *observation and may not include the observation or assessment of*  
22 *any other pupil in the proposed placement. The observation or*  
23 *assessment by a public education agency of a pupil other than the*  
24 *pupil who is the subject of the observation pursuant to this*  
25 *subdivision may be conducted, if at all, only with the consent of the*  
26 *parent or guardian of the other pupil pursuant to this article. The*  
27 *results of any observation or assessment of any other pupil in*  
28 *violation of this subdivision is inadmissible in any due process or*  
29 *judicial proceeding regarding the free appropriate public*  
30 *education of that other pupil.*

31 (e) *If a due process hearing officer requests an independent*  
32 *educational assessment as part of a hearing pursuant to subsection*  
33 *(d) of Section 300.502 of Title 34 of the Code of Federal*  
34 *Regulations, the cost of the assessment shall be at public expense.*

35 SEC. 11. *Section 56341.5 of the Education Code, as amended*  
36 *by Chapter 62 of the Statutes of 2003, is amended to read:*

37 56341.5. (a) Each district, special education local plan area,  
38 or county office convening a meeting of the individualized  
39 education program team shall take steps to ensure that no less than  
40 one of the parents or guardians of the individual with exceptional

1 needs are present at each individualized education program  
2 meeting or are afforded the opportunity to participate.

3 (b) Parents or guardians shall be notified of the individualized  
4 education program meeting early enough to ensure an opportunity  
5 to attend.

6 (c) The individualized education program meeting shall be  
7 scheduled at a mutually agreed upon time and place. The notice of  
8 the meeting under subdivision (b) shall indicate the purpose, time,  
9 and location of the meeting and who shall be in attendance. Parents  
10 or guardians ~~may~~ *shall* also be informed in the notice of the right,  
11 *pursuant to clause (ii) of paragraph (1) of subsection (b) of Section*  
12 *300.345 of Title 34 of the Code of Federal Regulation*, to bring  
13 other people to the meeting who have knowledge or special  
14 expertise regarding the individual with exceptional needs.

15 (d) For an individual with exceptional needs beginning at age  
16 14, or younger, if appropriate, the meeting notice shall also  
17 indicate that a purpose of the meeting will be the development of  
18 a statement of the transition services needs of the individual  
19 required by subdivision (a) of Section 56345.1 and indicate that  
20 the individual with exceptional needs is also invited to attend. In  
21 accordance with paragraph (3) of subsection (b) of Section  
22 300.345 of the Code of Federal Regulations, for an individual with  
23 exceptional needs beginning at 16 years of age or younger, if  
24 appropriate, the meeting notice shall also indicate that a purpose  
25 of the meeting is the consideration of needed transition services for  
26 the individual required by subdivision (b) of Section 56345.1 and  
27 indicate that the individual with exceptional needs is invited to  
28 attend. If the pupil does not attend the individualized education  
29 program meeting, the district, special education local plan area, or  
30 county office shall take steps to ensure that the pupil's preferences  
31 and interests are considered in accordance with paragraph (2) of  
32 subsection (b) of Section 300.344 of Title 34 of the Code of  
33 Federal Regulations.

34 (e) The meeting notice shall also identify any other local  
35 agency in accordance with paragraph (3) of subsection (b) of  
36 Section 300.344 of Title 34 of the Code of Federal Regulations.

37 (f) If no parent or guardian can attend the meeting, the district,  
38 special education local plan area, or county office shall use other  
39 methods to ensure parent or guardian participation, including  
40 individual or conference telephone calls.

(g) A meeting may be conducted without a parent or guardian in attendance if the district, special education local plan area, or county office is unable to convince the parent or guardian that he or she should attend. In this event, the district, special education local plan area, or county office shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, as follows:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(h) The district, special education local plan area, or county office shall take whatever action is necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

(i) The district, special education local plan area, or county office shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.

*SEC. 12. Section 56344 of the Education Code is amended to read:*

56344. (a) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each district's school calendar for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 50-day time shall recommence on the date that pupil schooldays reconvene. *A meeting to develop an individualized education program for the pupil shall be conducted within 30 days*

1 of a determination that the pupil needs special education and  
2 related services pursuant to paragraph (2) of subsection (b) of  
3 Section 300.343 of Title 34 of the Code of Federal Regulations.

4 (b) Each district, special education local plan area, or county  
5 office shall have an individualized education program in effect for  
6 each individual with exceptional needs within its jurisdiction at the  
7 beginning of each school year in accordance with subdivision (a)  
8 and pursuant to subsections (a) and (b) of Section 300.342 of Title  
9 34 of the Code of Federal Regulations.

10 SEC. 13. Section 56345 of the Education Code is amended to  
11 read:

12 56345. (a) The individualized education program is a written  
13 statement determined in a meeting of the individualized education  
14 program team and shall include, but not be limited to, all of the  
15 following:

16 (1) The present levels of the pupil's educational performance,  
17 including the following:

18 (A) For a schoolage child, how the pupil's disability affects the  
19 pupil's involvement and progress in the general curriculum.

20 (B) For a preschoolage child, as appropriate, how the disability  
21 affects the child's participation in appropriate activities.

22 (2) The measurable annual goals, including benchmarks or  
23 short-term objectives related to the following:

24 (A) Meeting the pupil's needs that result from the pupil's  
25 disability to enable the pupil to be involved in and progress in the  
26 general curriculum.

27 (B) Meeting each of the pupil's other educational needs that  
28 result from the pupil's disability.

29 (3) The specific special educational instruction and related  
30 services and supplementary aids and services to be provided to the  
31 pupil, or on behalf of the pupil, and a statement of the program  
32 modifications or supports for school personnel that will be  
33 provided for the pupil in order to do the following:

34 (A) To advance appropriately toward attaining the annual  
35 goals.

36 (B) To be involved and progress in the general curriculum in  
37 accordance with subparagraph (A) of paragraph (1) and to  
38 participate in extracurricular and other nonacademic activities.

(C) To be educated and participate with other pupils with disabilities and nondisabled pupils in the activities described in this section.

(4) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in regular classes and in the activities described in paragraph (3).

(5) The individual modifications in the administration of state or districtwide assessments of pupil achievement that are needed in order for the pupil to participate in the assessment. If the individualized education program team determines that the pupil will not participate in a particular state or districtwide assessment of pupil achievement (or part of an assessment), a statement of the following:

(A) Why that assessment is not appropriate for the pupil.

(B) How the pupil will be assessed.

(6) The projected date for the beginning of the services and modifications described in paragraph (3), and the anticipated frequency, location, and duration of those services and modifications included in the individualized education program.

(7) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved.

(8) Beginning at least one year before the pupil reaches the age of 18, a statement shall be included in the individualized education program that the pupil has been informed of his or her rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 pursuant to Section 56041.5.

(9) A statement of how the pupil's progress toward the annual goals described in paragraph (2) will be measured.

(10) A statement of how the pupil's parents or guardians will be regularly informed, at least as often as parents or guardians are informed of their nondisabled pupil's progress in the following:

(A) The pupil's progress toward the annual goals described in paragraph (2).

(B) The extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year.

(b) ~~When~~ If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's

prescribed course of study and to meet or exceed proficiency standards for graduation.

(2) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

(3) Extended school year services when needed, as determined by the individualized education program team.

(4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including the following:

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs, that the ~~district, special education local plan area, or county office~~ *local educational agency* is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program. *Pursuant to paragraph (2) of subsection (a) of Section 300.350 of Title 34 of the Code of Federal Regulations, public education agencies shall make a good faith effort to assist each individual with exceptional needs to achieve the goals and objectives or benchmarks listed in the individualized education program of the pupil.*

(d) Consistent with Section 56000.5 and clause (iv) of subparagraph (B) of paragraph (3) of subsection (d) of Section 1414 of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of what constitutes an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the

1 individualized education program team shall consider the related  
2 services and program options that provide the pupil with an equal  
3 opportunity for communication access. The individualized  
4 education program team shall specifically discuss the  
5 communication needs of the pupil, consistent with the guidelines  
6 adopted pursuant to Section 56136 and Page 49274 of Volume 57  
7 of the Federal Register, including all of the following:

8 (1) The pupil's primary language mode and language, which  
9 may include the use of spoken language with or without visual  
10 cues, or the use of sign language, or a combination of both.

11 (2) The availability of a sufficient number of age, cognitive,  
12 and language peers of similar abilities which may be met by  
13 consolidating services into a local plan areawide program or  
14 providing placement pursuant to Section 56361.

15 (3) Appropriate, direct, and ongoing language access to special  
16 education teachers and other specialists who are proficient in the  
17 pupil's primary language mode and language consistent with  
18 existing law regarding teacher training requirements.

19 (4) Services necessary to ensure communication-accessible  
20 academic instructions, school services, and extracurricular  
21 activities consistent with the Vocational Rehabilitation Act of  
22 1973 as set forth in Section 794 of Title 29 of the United States  
23 Code and the Americans with Disabilities Act of 1990 as set forth  
24 in Section ~~12000~~ 12101, and following, of Title 42 of the United  
25 States Code.

26 (e) ~~No~~ General Fund money made available to school districts  
27 or local agencies may *not* be used for any additional  
28 responsibilities and services associated with paragraphs (1) and (2)  
29 of subdivision ~~(e)~~ (d), including the training of special education  
30 teachers and other specialists, even if those additional  
31 responsibilities or services are required pursuant to a judicial or  
32 state agency determination. Those responsibilities and services  
33 shall only be funded by a local educational agency as follows:

34 (1) The costs of those activities shall be funded from existing  
35 programs and funding sources.

36 (2) Those activities shall be supported by the resources  
37 otherwise made available to those programs.

38 (3) Those activities shall be consistent with ~~the provisions of~~  
39 Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved; ~~however, nothing in this. This section shall be construed to~~ does not remove the local educational agency's discretionary authority in regard to in-service activities.

SEC. 14. Section 56345.1 of the Education Code is amended to read:

56345.1. (a) Beginning at age 14, or younger, if determined by the individualized education program team pursuant to paragraph (1) of subsection (b) of Section 300.347 of Title 34 of the Code of Federal Regulations, and updated annually, a statement of the transition service needs of the pupil shall be included in the pupil's individualized education program. The statement shall be included under applicable components of the pupil's individualized education program that focuses on the pupil's courses of study, such as participation in advanced-placement courses or a vocational education program.

(b) Beginning at age 16 or younger and annually thereafter, in accordance with Section 56462 and paragraph (30) of Section 1401 of Title 20 of the United States Code, a statement of needed transition services shall be included in the pupil's individualized education program, including whenever appropriate, a statement of interagency responsibilities or any needed linkages.

(c) The term "transition services" means a coordinated set of activities for an individual with exceptional needs that does the following:

(1) Is designed within an outcome-oriented process, that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

(2) Is based upon the individual pupil's needs, taking into account the pupil's preferences and interests.

(3) Includes instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(d) If a participating agency, other than the local educational agency, fails to provide the transition services described in the pupil's individualized education program in accordance with this section, the local educational agency shall reconvene the individualized education program team to identify alternative strategies to meet the transition service needs for the pupil set out in the program.

SEC. 15. Section 56346 of the Education Code is amended to read:

56346. (a) ~~No pupil shall~~ *Informed parental consent shall be obtained before the initial provision of special education and related services to an individual with exceptional needs pursuant to clause (ii) of paragraph (1) of subsection (a) of Section 300.505 of Title 34 of the Code of Federal Regulations.*

(b) *A pupil may not be required to participate in all or part of any special education program, unless the parent is first informed, in writing, of the facts that make participation in the program necessary or desirable, and of the contents of the individualized education program, and after this notice, consents, in writing, to all or part of the individualized education program. If the parent does not consent to all the components of the individualized education program, then those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the pupil.*

~~(b) If the district, special education local plan area, or county office~~

(c) *If the local educational agency determines that the part of the proposed special education program to which the parent does not consent is necessary to provide a free and appropriate public education to the pupil, a due process hearing shall be initiated pursuant to Chapter 5 (commencing with Section 56500), unless a prehearing mediation conference is held. During the pendency of the due process hearing, the ~~district, special education local plan area, or county office~~ local educational agency may reconsider the proposed individualized education program, may choose to meet informally with the parent pursuant to subdivision (b) of Section 56502, or may hold a mediation conference pursuant to Section 56503. As an alternative to holding a due process hearing, the parties may hold a prehearing mediation conference pursuant to Section 56500.3 to resolve any issue or dispute. If a due process*

1 hearing is held, the hearing decision shall be the final  
2 administrative determination and shall be binding upon the  
3 parties. While a prehearing mediation conference or due process  
4 hearing is pending, the pupil shall remain in his or her ~~then-current~~  
5 *current* placement, unless the parent and the ~~district, special~~  
6 ~~education local plan area, or county office~~ *local educational*  
7 *agency* agree otherwise.

8 *SEC. 16. Section 56365 of the Education Code is amended to*  
9 *read:*

10 56365. (a) Nonpublic, nonsectarian school services,  
11 including services by nonpublic, nonsectarian agencies shall be  
12 available. These services shall be provided pursuant to Section  
13 56366, *and in accordance with Section 300.401 of Title 34 of the*  
14 *Code of Federal Regulations*, under contract with the district,  
15 special education local plan area, or county office to provide the  
16 appropriate special educational facilities, special education, or  
17 designated instruction and services required by the individual with  
18 exceptional needs ~~when~~ *if* no appropriate public education  
19 program is available.

20 (b) Pupils enrolled in nonpublic, nonsectarian schools and  
21 agencies under this section shall be deemed to be enrolled in public  
22 schools for all purposes of Chapter 4 (commencing with Section  
23 41600) of Part 24 and Section 42238. The district, special  
24 education local plan area, or county office shall be eligible to  
25 receive allowances under Chapter 7.2 (commencing with Section  
26 56836) for services that are provided to individuals with  
27 exceptional needs pursuant to the contract.

28 (c) If the state participates in the federal program of assistance  
29 for state-operated or state-supported programs for individuals  
30 with exceptional needs (P.L. 89-313, Sec. 6), pupils enrolled in  
31 nonpublic, nonsectarian schools shall be deemed to be enrolled in  
32 state-supported institutions for all purposes of that program and  
33 shall be eligible to receive allowances under Chapter 7.2  
34 (commencing with Section 56836) for supplemental services  
35 provided to individuals with exceptional needs pursuant to a  
36 contract with a district, special education local plan area, or county  
37 office of education. In order to participate in the federal program,  
38 the state ~~must~~ *shall* find that participation will not result in any  
39 additional expenditures from the General Fund.

1 (d) The district, special education local plan area, or county  
2 office shall pay to the nonpublic, nonsectarian school or agency the  
3 full amount of the tuition for individuals with exceptional needs  
4 that are enrolled in programs provided by the nonpublic,  
5 nonsectarian school pursuant to the contract.

6 (e) Before contracting with a nonpublic, nonsectarian school or  
7 agency outside of this state, the district, special education local  
8 plan area, or county office shall document its efforts to utilize  
9 public schools or to locate an appropriate nonpublic, nonsectarian  
10 school or agency program, or both, within the state.

11 (f) If a district, special education local plan area, or county  
12 office places a pupil with a nonpublic, nonsectarian school or  
13 agency outside of this state, the pupil's individualized education  
14 program team shall submit a report to the superintendent within 15  
15 days of the placement decision. The report shall include  
16 information about the special education and related services  
17 provided by the out-of-state program placement and the costs of  
18 the special education and related services provided, and shall  
19 indicate the efforts of the local educational agency to locate an  
20 appropriate public school or nonpublic, nonsectarian school or  
21 agency, or a combination thereof, within the state. The  
22 superintendent shall submit a report to the State Board of  
23 Education on all placements made outside of this state.

24 (g) If a school district, special education local plan area, or  
25 county office of education decides to place a pupil with a  
26 nonpublic, nonsectarian school or agency outside of this state, that  
27 local education agency shall indicate the anticipated date for the  
28 return of the pupil to a public or nonpublic, nonsectarian school or  
29 agency placement, or a combination thereof, located in the state  
30 and shall document efforts during the previous placement year to  
31 return the pupil.

32 (h) In addition to meeting the requirements of Section 56366.1,  
33 a nonpublic, nonsectarian school or agency that operates a  
34 program outside of this state shall be certified or licensed by that  
35 state to provide, respectively, special education and related  
36 services and designated instruction and related services to pupils  
37 under the Individuals with Disabilities Education Act (20 U.S.C.  
38 Sec. 1400 et seq.).

39 (i) A nonpublic, nonsectarian school or agency that is located  
40 outside of this state is eligible for certification pursuant to Section

1 56366.1 only if a pupil is enrolled in a program operated by that  
2 school or agency pursuant to the recommendation of an  
3 individualized education program team in California, and if that  
4 pupil's parents or guardians reside in California.

5 (j) In accordance with subsections (b) and (c) of Section  
6 300.402 of Title 34 of the Code of Federal Regulations, the  
7 department shall disseminate copies of applicable standards to  
8 each nonpublic, nonsectarian school and nonpublic, nonsectarian  
9 agency to which a district, special education local plan area, or  
10 county office has referred or placed an individual with exceptional  
11 needs and shall provide an opportunity for those nonpublic,  
12 nonsectarian schools and nonpublic, nonsectarian agencies to  
13 participate in the development and revision of state standards that  
14 apply to those entities.

15 *SEC. 17. Section 56381 of the Education Code is amended to*  
16 *read:*

17 56381. (a) A reassessment of the pupil, based upon  
18 procedures specified in Article 2 (commencing with Section  
19 56320) shall be conducted at least once every three years or more  
20 frequently, if conditions warrant a reassessment, or if the pupil's  
21 parent or teacher requests a reassessment and a new individualized  
22 education program to be developed.

23 If the reassessment so indicates, a new individualized education  
24 program shall be developed.

25 (b) As part of any reassessment, the individualized education  
26 program team and other qualified professionals, as appropriate,  
27 shall do the following:

28 (1) Review existing assessment data on the pupil, including  
29 assessments and information provided by the parents of the pupil,  
30 as specified in clause (i) of paragraph (1) of subsection (a) of  
31 Section 300.533 of Title 34 of the Code of Federal Regulations,  
32 current classroom-based assessments and observations, and  
33 teacher and related services providers' observations.

34 (2) On the basis of the review conducted pursuant to paragraph  
35 (1), and input from the pupil's parents, identify what additional  
36 data, if any, is needed to determine:

37 (A) Whether the pupil continues to have a disability described  
38 in paragraph (3) of Section 1401 of Title 20 of the United States  
39 Code.

1 (B) The present levels of performance and educational needs of  
2 the pupil.

3 (C) Whether the pupil continues to need special education and  
4 related services.

5 (D) Whether any additions or modifications to the special  
6 education and related services are needed to enable the pupil to  
7 meet the measurable annual goals set out in the individualized  
8 education program of the pupil and to participate, as appropriate,  
9 in the general curriculum.

10 (c) ~~The district, special education local plan area, or county~~  
11 ~~office~~ *local educational agency* shall administer tests and other  
12 assessment materials ~~as may be~~ needed to produce the data  
13 identified by the individualized education program team.

14 (d) If the individualized education program team and other  
15 qualified professionals, as appropriate, determine that no  
16 additional data is needed to determine whether the pupil continues  
17 to be an individual with exceptional needs, the ~~district, special~~  
18 ~~education local plan area, or county office~~ *local educational*  
19 *agency* shall notify the pupil's parents of that determination and  
20 the reasons for it, and the right of the parents to request an  
21 assessment to determine whether the pupil continues to be an  
22 individual with exceptional needs; ~~however, the district, special~~  
23 ~~education local plan area, or county office shall not be.~~ *The local*  
24 *educational agency is not* required to conduct an assessment,  
25 unless requested by the pupil's parents.

26 (e) A ~~district, special education local plan area, or county~~  
27 ~~office~~ *local educational agency* shall assess an individual with  
28 exceptional needs in accordance with this section and procedures  
29 specified in Article 2 (commencing with Section 56320), as  
30 provided in paragraph (2) of subsection (c) of Section 300.534 of  
31 Title 34 of the Code of Federal Regulations.

32 (f) ~~No~~ A reassessment ~~shall~~ *may not* be conducted, unless the  
33 written consent of the parent is obtained prior to reassessment,  
34 except pursuant to subdivision (e) of Section 56506. *Pursuant to*  
35 *paragraphs (1) and (2) of subsection (c) of Section 300.505 of Title*  
36 *34 of the Code of Federal Regulations, informed parental consent*  
37 *need not be obtained for the reassessment of an individual with*  
38 *exceptional needs if the local educational agency can demonstrate*  
39 *that it has taken reasonable measures to obtain that consent and*  
40 *the child's parent has failed to respond. To meet the reasonable*

1 *measure requirements of this subdivision, the local educational*  
2 *agency shall use procedures consistent with those set forth in*  
3 *subsection (d) of Section 300.345 of Title 34 of the Code of Federal*  
4 *Regulations.*

5 (g) The individualized education program team and other  
6 qualified professionals referenced in subdivision (b) may conduct  
7 the review without a meeting, as provided in subsection (b) of  
8 Section 300.533 of Title 34 of the Code of Federal Regulations.

9 (h) *Before determining that the individual is no longer an*  
10 *individual with exceptional needs, a local educational agency*  
11 *shall assess the individual in accordance with Section 56320 and*  
12 *this section, as appropriate, and Sections 300.532 and 300.533 of*  
13 *Title 34 of the Code of Federal Regulations, pursuant to paragraph*  
14 *(1) of subsection (c) of Section 300.534 of Title 34 of the Code of*  
15 *Federal Regulations.*

16 SEC. 18. *Section 56440.5 is added to the Education Code, to*  
17 *read:*

18 56440.5. *Each local educational agency shall ensure that a*  
19 *free appropriate public education is available to every child*  
20 *eligible under this part and under the Individuals with Disabilities*  
21 *Education Act (20 U.S.C. Sec. 1400 et Seq.), including children*  
22 *under three years of age not receiving early education program*  
23 *services pursuant to Chapter 4.4 (commencing with Section*  
24 *56425), or early intervention services pursuant to Chapter 1*  
25 *(commencing with Section 95000) of Title 14 of the Government*  
26 *Code no later than the child's third birthday and that an*  
27 *individualized education program is in effect by that date as*  
28 *required by Section 300.121 of Title 34 of the Code of Federal*  
29 *Regulations. If the child's birthday occurs during the summer, the*  
30 *child's individualized education program team shall determine the*  
31 *date when services under the individualized education program*  
32 *will begin.*

33 SEC. 19. *Section 56500.3 of the Education Code is amended*  
34 *to read:*

35 56500.3. (a) It is the intent of the Legislature that parties to  
36 special education disputes be encouraged to seek resolution  
37 through mediation prior to filing a request for a due process  
38 hearing. It is also the intent of the Legislature that these voluntary  
39 prehearing request mediation conferences be an informal process  
40 conducted in a nonadversarial atmosphere to resolve issues

1 relating to the identification, assessment, or educational placement  
2 of the child, or the provision of a free, appropriate public education  
3 to the child, to the satisfaction of both parties. Therefore, attorneys  
4 or other independent contractors used to provide legal advocacy  
5 services ~~shall~~ may not attend or otherwise participate in the  
6 prehearing request mediation conferences.

7 (b) ~~Nothing in this part shall~~ *This part does not* preclude the  
8 parent or the public ~~education~~ *educational* agency from being  
9 accompanied and advised by nonattorney representatives in the  
10 mediation conferences and consulting with an attorney prior to or  
11 following a mediation conference. For purposes of this section,  
12 “attorney” means an active, practicing member of the State Bar  
13 of California or another independent contractor used to provide  
14 legal advocacy services, but does not mean a parent of the pupil  
15 who is also an attorney.

16 (c) Requesting or participating in a mediation conference is not  
17 a prerequisite to requesting a due process hearing.

18 (d) All requests for a mediation conference shall be filed with  
19 the superintendent. The party initiating a mediation conference by  
20 filing a written request with the superintendent shall provide the  
21 other party to the mediation with a copy of the request at the same  
22 time the request is filed with the superintendent. The mediation  
23 conference shall be conducted by a person knowledgeable in the  
24 process of reconciling differences in a nonadversarial manner and  
25 under contract with the department pursuant to Section 56504.5.  
26 The mediator shall be knowledgeable in the laws and regulations  
27 governing special education.

28 (e) The prehearing mediation conference shall be scheduled  
29 within 15 days of receipt by the superintendent of the request for  
30 mediation. The mediation conference shall be completed within  
31 30 days after receipt of the request for mediation unless both  
32 parties to the prehearing mediation conference agree to extend the  
33 time for completing the mediation. *Pursuant to paragraph (3) of*  
34 *subsection (b) of Section 300.506 of Title 34 of the Code of Federal*  
35 *Regulations, and to encourage the use of mediation, the state shall*  
36 *bear the cost of the mediation process, including any meetings*  
37 *described in subsection (d) of Section 300.506 of Title 34 of the*  
38 *Code of Federal Regulations. The costs of mediation shall be*  
39 *included in the contract described in Section 56504.5.*



(f) Based upon the mediation conference, the district superintendent, the county superintendent, or the director of the public ~~education~~ *educational* agency, or his or her designee, may resolve the issue or issues. However, this resolution ~~shall~~ *may* not conflict with state or federal law and shall be to the satisfaction of both parties. A copy of the written resolution shall be mailed to each party within 10 days following the mediation conference.

(g) If the mediation conference fails to resolve the issues to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a state-level hearing pursuant to Section 56505. The mediator may assist the parties in specifying any unresolved issues to be included in the hearing request.

(h) Any mediation conference held pursuant to this section shall be *scheduled in a timely manner and shall be held* at a time and place reasonably convenient to the ~~parent and pupil~~ *parent and pupil parties to the dispute in accordance with paragraph (4) of subsection (b) of Section 300.506 of Title 34 of the Code of Federal Regulations*.

(i) The mediation conference shall be conducted in accordance with regulations adopted by the board.

(j) Notwithstanding any procedure set forth in this chapter, a public ~~education~~ *educational* agency and a parent may, if the party initiating the mediation conference so chooses, meet informally to resolve any issue or issues to the satisfaction of both parties prior to the mediation conference.

(k) The procedures and rights contained in this section shall be included in the notice of parent rights attached to the pupil's assessment plan pursuant to Section 56321.

*SEC. 20. Section 56500.4 of the Education Code is amended to read:*

56500.4. Pursuant to paragraphs (3) and (4) of subsection (b) of Section 1415 of Title 20 of the United States Code, and in accordance with Section 300.503 of Title 34 of the Code of Federal Regulations, written prior notice shall be given by the public agency to the parents or guardians of an individual with exceptional needs, or to the parents or guardians of a child upon initial referral for assessment, ~~as the case may be~~.

*SEC. 21. Section 56500.6 is added to the Education Code, to read:*

1 56500.6. *Due process and state complaint procedures for*  
2 *children enrolled in private schools by their parents pursuant to*  
3 *Sections 56170 to 56174.5, inclusive, shall be in accordance with*  
4 *Section 300.347 of Title 34 of the Code of Federal Regulations.*

5 SEC. 22. *Section 56502 of the Education Code is amended to*  
6 *read:*

7 56502. (a) All requests for a due process hearing shall be  
8 filed with the superintendent *in accordance with paragraphs (1)*  
9 *and (2) of subsection (c) of Section 300.507 of Title 34 of the Code*  
10 *of Federal Regulations.*

11 (b) The superintendent shall develop a model form to assist  
12 parents and guardians in filing a request for due process that is in  
13 accordance with paragraph (3) of subsection (c) of Section  
14 300.507 of Title 34 of the Code of Federal Regulations.

15 (c) The party initiating a due process hearing by filing a written  
16 request with the superintendent shall provide the other party to the  
17 hearing with a copy of the request at the same time as the request  
18 is filed with the superintendent.

19 (d) The superintendent shall take steps to ensure that within 45  
20 days after receipt of the written hearing request the hearing is  
21 immediately commenced and completed, including, any  
22 mediation requested at any point during the hearing process  
23 pursuant to paragraph (2) of subdivision (b) of Section 56501, and  
24 a final administrative decision is rendered, unless a continuance  
25 has been granted pursuant to Section 56505.

26 (e) Notwithstanding any procedure set forth in this chapter, a  
27 public education agency and a parent or guardian may, if the party  
28 initiating the hearing so chooses, meet informally to resolve any  
29 issue or issues relating to the identification, assessment, or  
30 education and placement of the child, or the provision of a free,  
31 appropriate public education to the child, to the satisfaction of both  
32 parties prior to the hearing. The informal meeting shall be  
33 conducted by the district superintendent, county superintendent,  
34 or director of the public education agency or his or her designee.  
35 Any designee appointed pursuant to this subdivision shall have the  
36 authority to resolve the issue or issues.

37 (f) Upon receipt by the superintendent of a written request by  
38 the parent or guardian or public education agency, the  
39 superintendent or his or her designee or designees shall  
40 immediately notify, in writing, all parties of the request for the

hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The superintendent or his or her designee shall provide both parties with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

*SEC. 23. Section 56504.5 of the Education Code is amended to read:*

56504.5. The department shall contract with a single, nonprofit organization or entity to conduct mediation conferences and due process hearings in accordance with ~~Section~~ Sections 300.506 and 300.508 of Title 34 of the Code of Federal Regulations.

*SEC. 24. Section 56505 of the Education Code is amended to read:*

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board.

(b) The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws and regulations governing special education and administrative hearings pursuant to Section 56504.5, and who has satisfactorily completed training pursuant to this subdivision. The superintendent shall establish standards for the training of hearing officers, the degree of specialization of the hearing officers, and the quality control mechanisms to be used to ensure that the hearings are fair and the decisions are accurate. A due process hearing may not be conducted by any individual listed in subsection (a) of Section 300.508 of Title 34 of the Code of Federal Regulations. Pursuant to subsection (b) of Section 300.508 of Title 34 of the Code of Federal Regulations, a person who is qualified to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The hearing officer shall encourage the parties to a hearing to consider the option of mediation as an alternative to a hearing.

(d) Pursuant to subsection (a) of Section 300.514 of Title 34 of the Code of Federal Regulations, during the pendency of the hearing proceedings, including the actual state level hearing, or judicial proceeding regarding a due process hearing, the pupil shall remain in his or her present placement, except as provided in Section 300.526 of Title 34 of the Code of Federal Regulations, unless the public agency and the parent or guardian agree otherwise. A pupil applying for initial admission to a public school shall, with the consent of his or her parent or guardian, be placed in the public school program until all proceedings have been completed. As provided in subsection (c) of Section 300.514 of Title 34 of the Code of Federal Regulations, if the decision of a hearing officer in a due process hearing or a state review official in an administrative appeal agrees with the pupil's parent or guardian that a change of placement is appropriate, that placement must be treated as an agreement between the state or local agency and the parent or guardian.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of individuals with exceptional needs.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written, or, at the option of the parents or guardians, electronic verbatim record of the hearing.

(5) The right to written, or, at the option of the parent or guardian, electronic findings of fact and decisions. The record of the hearing and the findings of fact and decisions shall be provided at no cost to parents or guardians in accordance with paragraph (2) of subsection (c) of Section 300.509 of Title 34 of the Code of Federal Regulations. The findings and decisions shall be made available to the public after any personally identifiable information has been deleted consistent with the confidentiality requirements of subsection (c) of Section 1417 of Title 20 of the United States Code and shall also be transmitted to the Advisory Commission on Special Education pursuant to paragraph (4) of

subsubsection (h) of Section 1415 of Title 20 of the United States Code.

(6) The right to be informed by the other parties to the hearing, at least 10 days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues. Upon the request of a parent who is not represented by an attorney, the agency responsible for conducting hearings shall provide a mediator to assist the parent in identifying the issues and the proposed resolution of the issues.

(7) The right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing. Included in the material to be disclosed to all parties at least five business days prior to a hearing shall be all assessments completed by that date and recommendations based on the assessments that the parties intend to use at the hearing.

(8) The right, pursuant to paragraph (3) of subsection (a) of Section 300.509 of Title 34 of the Code of Federal Regulations, to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

(f) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the hearing officer to grant an extension. The extension shall be granted upon a showing of good cause. Any extension shall extend the time for rendering a final administrative decision for a period only equal to the length of the extension.

(g) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(h) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(i) ~~Nothing in this~~ This chapter ~~shall~~ does not preclude a party aggrieved by the findings and decisions in a hearing under this section from exercising the right to appeal the decision to a state court of competent jurisdiction. An aggrieved party may also exercise the right to bring a civil action in a district court of the

1 United States without regard to the amount in controversy,  
2 pursuant to Section 300.512 of Title 34 of the Code of Federal  
3 Regulations. An appeal shall be made within 90 days of receipt of  
4 the hearing decision. During the pendency of any administrative  
5 or judicial proceeding conducted pursuant to Chapter 5  
6 (commencing with Section 56500), unless the public education  
7 agency and the parents of the child agree otherwise, the child  
8 involved in the hearing shall remain in his or her present  
9 educational placement. Any action brought under this subdivision  
10 shall adhere to the provisions of subsection (b) of Section 300.512  
11 of Title 34 of the Code of Federal Regulations.

12 (j) Any request for a due process hearing arising under  
13 subdivision (a) of Section 56501 shall be filed within three years  
14 from the date the party initiating the request knew or had reason  
15 to know of the facts underlying the basis for the request.

16 (k) Pursuant to subsection (c) of Section 300.508 of Title 34 of  
17 the Code of Federal Regulations, each public education agency  
18 shall keep a list of the persons who serve as due process hearing  
19 officers, in accordance with Section 56504.5 and the list shall  
20 include a statement of the qualifications of each of those persons.  
21 The list of hearing officers shall be provided to the public  
22 education agencies by the organization or entity under contract  
23 with the department to conduct due process hearings.

24 SEC. 25. Section 56506 of the Education Code is amended to  
25 read:

26 56506. In addition to the due process hearing rights  
27 enumerated in subdivision (b) of 56501, the following due process  
28 rights extend to the pupil and the parent:

29 (a) Written notice to the parent of his or her rights in language  
30 easily understood by the general public and in the ~~primary~~ native  
31 language of the parent, as defined in Section 300.19 of Title 34 of  
32 the Code of Federal Regulations, or other mode of communication  
33 used by the parent, unless to do so is clearly not feasible. The  
34 written notice of rights shall include, but not be limited to, those  
35 prescribed by Section 56341.

36 (b) The right to initiate a referral of a child for special education  
37 services pursuant to Section 56303.

38 (c) The right to obtain an independent educational assessment  
39 pursuant to subdivision (b) or (c) of Section 56329.

(d) The right to participate in the development of the individualized education program and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic.

(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted, unless the public education agency prevails in a due process hearing relating to the assessment. ~~Informed~~ *In accordance with subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed* parental consent need not be obtained in the case of a reassessment of the pupil if the local educational agency can demonstrate that it has taken reasonable measures to obtain consent and the pupil's parent has failed to respond.

(f) Written parental consent pursuant to Section 56321 shall be obtained before the pupil is placed in a special education program.

*SEC. 26. Chapter 5.1 (commencing with Section 56515) is added to Part 30 of the Education Code, to read:*

*CHAPTER 5.1. CONFIDENTIALITY OF INFORMATION ABOUT  
INDIVIDUAL WITH EXCEPTIONAL NEEDS*

*56515. (a) In addition to the provisions of Chapter 6.5 (commencing with Section 49060) of Part 27, the confidentiality of personally identifiable information about individuals with exceptional needs shall be governed and protected in accordance with the provisions of Sections 300.560 to 300.577, inclusive, of Title 34 of the Code of Federal Regulations, including, notice to parents, access rights, records on more than one child, lists and types of locations of information, amendment of records at parent's request, parental consent regarding the disclosure of personally identifiable information, fees for copies of records, amendment of records at parent's request, opportunity for a hearing, safeguards, destruction of information, children's privacy rights, enforcement, and disciplinary information about an individual with exceptional needs.*

*(b) Pursuant to paragraph (3) of subsection (b) of Section 300.500 of Title 34 of the Code of Federal Regulations, "personally identifiable," as used in this part includes all of the following information:*

1     (1) *The name of the child, the child parent's, or other family*  
2 *member.*

3     (2) *The address of the child.*

4     (3) *A personal identifier, including, but not limited to, the*  
5 *child's social security account number, a pupil number, a list of*  
6 *personal characteristics, or other information that would make it*  
7 *possible to identify the child with reasonable certainty.*

8     SEC. 27. *Section 56863 of the Education Code is amended to*  
9 *read:*

10     56863. The state hospitals, as part of the notification to  
11 parents of pupils of their rights pursuant to the Individuals with  
12 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the  
13 Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and this  
14 part and implementing regulations, shall notify parents of the right  
15 that their child can be considered for education programs other  
16 than on state hospital grounds.

17     For the purposes of this section, the term "parent of pupil" shall  
18 mean a parent, a legal guardian, a conservator, a person acting as  
19 a parent of a child, or a surrogate parent appointed pursuant to  
20 ~~Public Law 94-142~~ *Section 300.515 of the Code of Federal*  
21 *Regulations.*

22     Information and records concerning state hospital patients in the  
23 possession of the Superintendent of Public Instruction shall be  
24 treated as confidential under Section 5328 of the Welfare and  
25 Institutions Code and the Federal Privacy Act of 1974, Public Law  
26 93-579.

27     SEC. 28. *No reimbursement is required by this act pursuant*  
28 *to Section 6 of Article XIII B of the California Constitution for*  
29 *certain costs that may be incurred by a local agency or school*  
30 *district because in that regard this act implements a federal law or*  
31 *regulation and results only in costs mandated by the federal*  
32 *government, within the meaning of Section 17556 of the*  
33 *Government Code.*

34     *However, notwithstanding Section 17610 of the Government*  
35 *Code, if the Commission on State Mandates determines that this*  
36 *act contains other costs mandated by the state, reimbursement to*  
37 *local agencies and school districts for those costs shall be made*  
38 *pursuant to Part 7 (commencing with Section 17500) of Division*  
39 *4 of Title 2 of the Government Code. If the statewide cost of the*  
40 *claim for reimbursement does not exceed one million dollars*



1 (\$1,000,000), reimbursement shall be made from the State  
2 Mandates Claims Fund.

3 amended to read:

4 ~~17280.5. (a) The Seismic Safety Commission shall convene~~  
5 ~~an advisory committee that shall include, but not be limited to, the~~  
6 ~~State Architect, the State Fire Marshal, representatives from the~~  
7 ~~major professional associations representing architects, engineers,~~  
8 ~~and school facilities designers, and other interested parties.~~

9 ~~(b) The advisory committee shall convene by August 19, 2002,~~  
10 ~~and shall study and report on whether a regulatory process may be~~  
11 ~~developed that will allow the State Architect to determine whether~~  
12 ~~a building not originally constructed in compliance with the Field~~  
13 ~~Act, as defined in Section 17281, and its implementing regulations~~  
14 ~~either meets, or can be retrofitted to meet, the equivalent pupil~~  
15 ~~safety performance standard as a building constructed according~~  
16 ~~to the Field Act and its implementing regulations. If the advisory~~  
17 ~~committee finds that the regulatory process may be developed, the~~  
18 ~~advisory committee, shall include within its report the facts and~~  
19 ~~rationale supporting the finding and the essential steps required in~~  
20 ~~that regulatory process. The advisory committee shall report its~~  
21 ~~findings to the Seismic Safety Commission by December 31,~~  
22 ~~2002.~~

23 ~~(c) By January 8, 2003, and after reviewing the advisory~~  
24 ~~committee's findings, the Seismic Safety Commission shall make~~  
25 ~~a determination as to whether the regulatory process described in~~  
26 ~~subdivision (b) may be developed, and shall report that~~  
27 ~~determination to the Governor and the Legislature.~~

28 ~~(d) If the Seismic Safety Commission determines that the~~  
29 ~~regulatory process may be developed, the State Architect shall~~  
30 ~~draft regulations to establish that regulatory process and to~~  
31 ~~delineate the required retrofitting, deconstructive testing,~~  
32 ~~continuous inspection procedures, and other necessary~~  
33 ~~certifications and requirements that must be completed for a~~  
34 ~~building to ensure that it meets the equivalent pupil safety~~  
35 ~~performance standard as a building constructed according to the~~  
36 ~~Field Act and its implementing regulations. The State Architect~~  
37 ~~shall promulgate the regulations on or before April 1, 2003, as~~  
38 ~~emergency regulations in accordance with the rulemaking~~  
39 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~

1 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
2 ~~2 of the Government Code).~~  
3 ~~(c) Notwithstanding any law, a leased or purchased building~~  
4 ~~that is determined to have the equivalent pupil safety performance~~  
5 ~~standard as a building constructed according to the Field Act and~~  
6 ~~implementing regulations is hereby deemed to be in full~~  
7 ~~compliance with the safety requirements of a school building as set~~  
8 ~~forth in Section 17280, and is hereby deemed to be in full~~  
9 ~~compliance with the Field Act.~~

